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the help that the Race Club authorities gave with regard to the passing of this measure has been very valuable to the Government. I am sure the figures have been worked out carefully and the Hon. Member is not wrong when he says that he could safely rely on those figures and that it would not be very difficult for the Government to collect this tax.

"I am indeed thankful to my hon. Friend, Mr. P. V. Krishnayya Choudari, for having withdrawn his amendment. I am sure if he had known that 1½ per cent would bring in one lakh of revenue, he would not have moved his amendment. I am sure that all Members of this House are obliged not only to the Hon. the Home Member but also to the Hon. the Finance Member for the interest he has taken in this purely fiscal measure leaving all questions of morality aside."

The motion was put and carried and the Bill was passed into law.

III.—THE MADRAS PUBLIC SERVICE COMMISSION BILL^a

(BILL No. 19 OF 1935).

* The Hon. Mr. C. A. SOUTER:—"Mr. President, Sir, I beg to introduce the Madras Public Service Commission Bill (Bill No. 19 of 1935) and move that the Bill be taken into consideration at once.

"At page 5 of the printed Bill, hon. Members will find the Statement of Objects and Reasons for this Bill. I may state briefly that, although we have a Public Service Commission Act now, when the new Government of India Act comes into force, that Act will automatically lapse. The constitution, etc., of the future public service commissions not only in this Province but in the Federal Government and in the other Provinces will be regulated by Chapter III of Part X of the Government of India Act of 1935. Hon. Members who read sections 264 to 268 of that Act will see that that chapter in itself contains full provisions for the constitution and functioning of the public service commissions. They will also notice if they read those sections carefully that the Act which has been in force in this Presidency for the last three or four years is in many respects *ultra vires* the new Government of India Act. Although it is quite possible for us to carry on under the present Services Commission Act until the new Government of India Act comes into operation in this Presidency, I think it is better that we amend the Act suitably and that is the reason why the Government have thought it necessary to bring forward this Bill. My reasons for stating that it will be a mistake to continue our present Act until the introduction of the Reformed Government are briefly these: Under the present Act we have, in accordance with its provisions, made a large number of rules and conventions with the Commission for carrying on the provisions of that Act in a manner which, as I have said, is inconsistent with the provisions of the new Government of India Act. We can carry on under these conditions until the new Act comes into force, but is it not much

^a Published in the *Fort St. George Gazette*, dated 22nd October 1935.

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better and will it not be to the great advantage of the future Government of this Presidency that we should, during the comparatively short interval which I hope will take place between now and the introduction of the new Government of India Act, have a Service Commission to carry on its business in accordance with what it will have to do after the Government of India Act comes into force? Is it not better also that we revise our rules in the meantime in such a way that they will not be repugnant to any of the provisions of the Government of India Act? The revision of these rules, I may inform hon. Members, is not an easy matter. It is a matter which will take very considerable time, and if the new Government, whenever it comes, is to be saddled with the duty of revising these rules, it will find that a great deal of its time will be taken up which might have been spared if the present Government had brought in an Act of this sort and framed the rules which, then, by a stroke of the pen, could be made applicable to the new Government of India Act. Those, Sir, are the main reasons which actuated this Government in bringing forward this Bill.

“It may possibly be asked, and I think rightly, why it is that the Madras Government should have thought it fit to bring forward such a measure as this when other Governments in India have not done so, so far as we are aware. The answer, Sir, is simple: it is that we alone of all the Provinces of India have a Public Service Commission. Having that Public Service Commission, it seems to us far better that it should continue under the new Government and that there should be no necessity for reconstituting it and adopting other measures when the new Government comes into being.

“As regards the provisions of the Act itself, we follow almost literally in most respects, the actual sections of the Government of India Act. We are introducing nothing in our present Bill which is in any way contrary to the provisions of that Act; and I would ask hon. Members, before they make up their minds on the present Bill, to study those sections of the Government of India Act and the clauses of this present Bill, and they will notice how very close the one is to the other. I assure this hon. House that there is no ulterior motive—I think it is a phrase which is very often used here—in the introduction of this Bill. It is only done to facilitate the work of the new Government which is coming into being and for no other reason whatever. With these words I once again move that this Bill (No. 19 of 1935) be taken into consideration.”

The Hon. Mr. G. T. H. BRACKEN:—“I second it.”

* Dr. P. SUBBARAYAN:—“Mr. President, I am sure the Hon. the Revenue Member will not charge me with saying that he has any ulterior motive behind this proposal. I do not at all suspect that. I have carefully read sections 264 to 268 of the Government of India Act of 1935 which deal with public service commissions in general,

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both Federal and Provincial. As I said yesterday with regard to the Tobacco Bill, my complaint is that this Government who are almost on their last legs—and they can of course be kept alive for the next few years by extension—are trying to rush legislation through this House on all matters which might very easily be left to their successors in this House. After all, the Government of India Act of 1935 has laid down everything in very careful terms—and I believe I will not be contradicted when I say that whatever may be the opinion on the measure of self-government granted to this country by this new Act, nobody can complain about the draftsmanship of the Act. I think it is one of the most carefully drafted measures that I have ever read and I think from the point of view of legal draftsmanship whenever one reads the sections of this Act, one is pleased with its draftsmanship, even though the safeguards that have been put in there might tighten the smooth working of the Act and put every obstacle in the way of development of self-government in this country. It is a very carefully drafted measure and I do not see why this Government should try to improve on the provisions of the Government of India Act and whether this Council passes this Bill or not, a Public Services Commission with regard to this Province will have to be appointed and the appointment of such commissioners would entirely be at the discretion of His Excellency the Governor. The rules and regulations with regard to the functioning of such a commission should also be left to the discretion of His Excellency the Governor under the provisions of the Government of India Act of 1935. I would like to ask the Hon. Gentleman who is sitting on the Treasury Bench to-day ‘why this undue haste; why not leave it to His Excellency the Governor and his Council of Ministers whom he may select after the next elections to deal with this measure?’ Now this Government has got a Commission of their own, and it has done its work well. But now I ask why this haste when there is a specific and explicit provision in the new Government of India Act and why this Government should be so anxious to tie the hands of their successors? As I said yesterday, I do not think their successors will thank them for their undue haste. It is for the Ministers of His Excellency’s future Government to put through a measure which would carry out the wishes or the objects which this Bill has in view, viz., that the services should not be under the political influence of any Ministry that might be in office. Therefore that safeguard which is absolutely necessary in any form of democracy is already provided for in the Government of India Act. Therefore, I personally feel that this particular anxiety which the Hon. Gentlemen on the Treasury Bench are showing to-day for their successors is quite unnecessary and unwarranted and it is much better that this solicitude for the position of their successors is given up here and now and they leave it to their successors to do what they think fit, because under the new constitution, Mr. President, the Government is going to be one wholly responsible to the Legislature of this Province and through the Legislature to the people of this Province. The four Hon. Gentlemen who are sitting on the reserved side of the Treasury

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Bench to-day, however eminent they may be, are not responsible to anybody in this country. They are not responsible to the Legislature or the people of this country."

The Hon. Sir K. V. REDDI NAYUDU:—"They are responsible to the British Government and to the British Parliament."

* Dr. P. SUBBARAYAN:—"If the Hon. Member had kept quiet for a moment, he would have heard what I was going to say. They are responsible to some authority somewhere, but they are responsible to nobody in this country which is a fact and which the Hon. Member cannot deny. They may be responsible to the Governor and through the Governor to the British Parliament. But you are not responsible to anybody in this country and that is my point. I do not understand why this irresponsible Government which is not responsible to anybody in this country should be so anxious to pick the chestnuts out of the fire for the next Government. The Hon. the Leader of the House for whose ability I have got very great respect cannot deny the fact that he is not responsible to a single person in this country. My complaint is why this irresponsible Government which cannot be turned out by a vote of this House should be so anxious to legislate for the future. I would therefore appeal to Hon. Members on the Treasury Bench to leave well alone the Public Services Commission Act under the old Government of India Act and leave the responsibility of bringing in legislation of this kind in consonance with the provisions of the Government of India Act of 1935 to those that might take office in this House under the new constitution."

* The Hon. the PRESIDENT:—"There is an amendment in the name of Mr. Basheer Ahmed Sayeed."

Mr. BASHEER AHMED SAYEED:—"The amendment that stands in my name is for a reference of this Bill to a Select Committee of this House. But before I make that motion, my inclination is to oppose this measure at the very initial stage of the Bill itself. As the Leader of the Opposition has pointed out,—and I entirely agree with him—it is quite unnecessary for the present Government to forestall their views on the future Government which might be constituted under the Government of India Act of 1935."

"Now, Sir, coming to the Bill itself, the Hon. the Revenue Member has told us that the clauses which are contained in the Bill that has been moved are nothing but a copy of the sections of the Government of India Act itself. If that were the case, perhaps the Hon. the Revenue Member has forgotten that the Government of India Act has not yet come into force. Particularly these sections which he has referred to, viz., sections 264 to 268 are not to come into force until His Majesty's Government fixes a date when they shall come into force under section 477 of the Government of India Act. The date has to

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be fixed by His Majesty as to when the Act is to come into operation. This is what clause (2) of section 477 says:—

‘477 (2). The remainder of this Act shall, subject to any express provision to the contrary, come into force on such date as His Majesty in Council may appoint and the said date is the date referred to in this Act as the commencement of Part III of this Act and referred to in Part XIV of this Act as the commencement of that part.’

That being the case, I do not know how far the Hon. the Revenue Member is justified in saying that he is enacting this measure under these sections of the Government of India Act at all. I say that it is not competent for him to say that he is enacting this measure under the provisions of the Government of India Act. Very well, the Hon. the Revenue Member is denying that he is enacting this measure under the sections of the Government of India Act which deal with the constitution and establishment of the Services Commission. Now, Sir, apparently he admits that he is enacting this measure under the rules made under the existing Government of India Act or the rules made by the Secretary of State. Then, Sir, I submit for your consideration and for the consideration of this House that it is quite unnecessary that there should be such a Commission constituted, because the Hon. the Revenue Member has contended when the report of the Commission was discussed on the floor of this House that several sections of the existing Madras Services Commission Act are *ultra vires* of the provisions of the new Government of India Act. If the provisions of the Government of India Act of 1935 have not yet come into force, the question that the existing sections of the Madras Services Commission Act are *ultra vires* of the sections of the new Government of India Act does not at all arise. It is a very premature point. I do not think the Hon. the Revenue Member is entitled to say at all that the existing sections of the Services Commission Act are *ultra vires* of the sections of the Government of India Act at all. If some of the sections of the Services Commission Act are *ultra vires* the moment the sections of the Government of India Act come into operation on the day to be fixed by His Majesty's Government, this existing Act of Madras Services Commission of 1929 has no legal value. Automatically from the date which His Majesty's Government may fix for the coming into force of those sections of the Government of India Act, the Services Commission Act of 1929 will cease to have any effect. Then, Sir, it would be open to the Government to come forward and constitute a Commission and define its functions and duties under the particular sections of the Government of India Act. There is no need for two separate measures at all. The moment sections 264 to 268 come into force, then there is no need for a separate Act at all. The existing Act goes out of existence. When these sections come into operation, by executive orders or by rules and regulations framed by the Governor, the Governor is to constitute a Commission under sections 264 to 268.

“Now, Sir, the preamble of the Bill runs as follows:

‘Whereas the Secretary of State for India in Council has made a rule authorizing the local legislature, subject to certain conditions and restrictions,

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to make laws for the establishment and for determining the functions of a Commission to regulate the public services of the Presidency of Madras;

And whereas it is necessary and expedient to establish a Commission for discharging the functions hereinafter specified in relation to the said service.'

"Sir, the Commission is required to do what? I venture to ask what is the preamble? What is the implication of this preamble? Already the Services Commission for the Madras Presidency exists and there is no need to constitute a further Commission for discharging its functions. The rule that was made by the Secretary of State for India in Council was the old rule and under it the existing Commission has been constituted and that Commission is now functioning. Now, Sir, is it proposed that a second Commission is going to be established under this preamble? Is there any new rule which the Secretary of State has issued under which this Commission can be constituted or is he entitled to issue any such rule? How is it that this Commission is said to be constituted under one breath and in the same breath the Hon. the Revenue Member again says that he is going to remove some of the illogicalities that have arisen in the existing Commission Act by virtue of the Government of India Act of 1935? At the same time he also says that he is constituting a Commission under the rules framed by the Secretary of State for India in Council. I think, Sir, he is taking an illogical position and leads one to absurdity.

"Coming to the other question, there is already the Commission that has been established and is functioning for the Local Government under rules framed by the Governor. What has happened to that Commission? What will happen to the rules and regulations framed by that Commission if this Bill is going to become law? What will happen to those persons who are there as Members and Chairman? Are they to be turned out in the event of this Bill being passed into law or are they going to continue as Members and Chairman? The natural implication of passing this measure will be that. The Hon. the Revenue Member will kindly tell me whether by the enactment of this measure the other Act, the Act of 1929 ceases to be an Act or not.

1 p.m.

"Then what happens to the Members of the Services Commission? Can you, without making any provision in this measure, say, 'We have enacted a fresh measure and as soon as that measure comes into operation, those members cease to function as members? Or is it the idea of the Government that when this Bill becomes law the present Commissioners and the Chairman will be reappointed? Or is it their idea that these members are to continue up to their sixtieth year when they will have to retire automatically? The question arises whether the Government can affect the vested rights of these Commissioners and their Chairman, rights which have been vested in them under the existing Act. Under the present Act these Commissioners are entitled to be in their offices until their sixtieth year. That being the case, is it competent for the Government to say, 'We have entered into a contract with you, but for no fault of yours we are enacting a fresh law and

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therefore you shall go out of office? ' This Bill does not seek to remove any difficulties at all in the matter as I see there are not very many difficulties at all.

" The Hon. the Revenue Member might say that we should make everything ready for the future Council and the future Government. What is it that is contemplated in sections 264 to 268 of the Government of India Act, 1935? They say that subject to the provisions of this section there shall be a Services Commission for the Federation and a Public Services Commission for each province. In our province there is already a Services Commission. The sections then go on describing the constitution and functions of the Commission. There is another enabling provision—section 267—which gives the Government the power, the only power. It says:

' Subject to the provisions of this section, an Act of the Federal Legislature or the Provincial Legislature may provide for the exercise of additional functions by the Federal Public Services Commission or, as the case may be, by the Provincial Services Commission, provided . . . '

" When section 267 comes into operation, the Government can come forward with a Bill of this kind and say, ' We have already got a Services Commission. It is functioning and we want to give it additional powers. We want to regulate those powers. We want a further amendment of the Act.' Instead of doing so, while they say that the present Act is *ultra vires* of the Government of India Act, they yet claim to act under the rules made by the Secretary of State in Council and further they say that they are going to constitute a Commission for discharging certain functions and duties while already a Commission is existing and discharging its duties to the fullest satisfaction, as I conceive it.

" The Hon. the Revenue Member stated that the rules and conventions that have been now framed and are in force are inconsistent with the sections of the Government of India Act, 1935. My remarks apply to those conventions as well. The fact that certain rules and certain conventions are inconsistent with the Government of India Act which is yet to come into force does not enable the Government to come forward with a measure of this kind at all. It is wholly premature and unnecessary. The Hon. the Revenue Member said that the moment the Government of India Act comes into force this Bill will automatically become useless. Why then I ask, do you waste the time of the Council, waste the time of the Secretariat, waste so much of energy and time when you say that the moment the Government of India Act becomes law this Act will become ineffective? I have noted the Hon. the Revenue Member's own words. He said:

' Even this Bill, when the Act comes into operation, will lapse automatically.'

" The regulations and the conventions and the rules that have been framed have been framed by the Government, meaning thereby the Governor acting with the Ministers and also the Governor acting with the Ministers and also the Councillors. Those are the regulations now in force and those are the rules now being followed by the Commission in

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the exercise of their powers and the discharge of their duties. When the sections of the Government of India Act come into force, they will transfer that responsibility to the Governor acting by himself. The Hon. the Revenue Member might say:

'The rules to-day are framed and given effect to by the Government. Later on it is the Governor who will have to do it. Before the Governor does it, we shall prepare them for the Governor.'

"Even to-day the Governor is functioning in giving effect to the rules made by the Government. It will make no difference whether the rules are made and kept ready for the Governor or not. Even in future, there will be the same rules, the same machinery and the same personnel which is going to deal with these rules. Only instead of saying 'Government' they will say 'Governor.' But the Governor is not going to sit down and call a steno-typist and say that this rule should be so and so and that rule should be so altered. The very same rules framed by the Government will be the rules framed by the Governor. Such being the case, where is the necessity for amending the present rules? What is the force of the argument that these rules are *ultra vires* and ought to be changed here and now because later on the Governor cannot find time to do it? Will not the same Government officials, the same Secretariat and the same persons be engaged in framing these rules? It makes very little difference whether they are passed in the name of the Governor or in the name of the Government. Any inconsistency that is now found by the Government is being removed then and there. Difficulties in the matter of appointments, recruitment and promotion are removed by the amendment of the rules and so on. The same thing will happen when the Governor will be supposed to be exercising these powers of rule-making in his individual capacity as Governor. There will be no difficulty to frame any rule, or alter any rule to suit particular cases even. There have been instances—the Government cannot deny that—when rules and regulations have been altered to suit certain individual cases and then have been restored to their original position when the contingency was tided over. When this is possible to-day, it will be equally possible for similar things to be done in the name of the Governor in future years. I do not see why it should be stated at the fag end of this Council before the sections of the Government of India Act, 1935, have come into force, that there should be a new Bill when the present Act itself is working quite satisfactorily. Probably there was an attempt in the days of the illustrious predecessor of the present Revenue Member to make the Act much more comprehensive, to make the Services Commission a real Commission to be of real use and value. If an attempt had been made by the present Hon. Revenue Member to make the existing Act XI of 1929 more effective, to give the Commission a really independent status and make their opinion really sound and acceptable to the Government, such a measure would have been more welcome. Instead of doing that, what do we find is being attempted to be done? To scrap off the measure which has now by experience shown itself to be inconvenient and inflexible and have another Bill. We shall see later on what seems to be *prima facie* attitude in bringing in a measure like this at this

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juncture. The existing Act requires, no doubt, amendment and expansion in many directions. With what object? With the object of making the Commission a really independent body, which has not got to depend on the Government either for appointment, advice or opinion and which can make the Government accept its recommendations in so far as they are in conformity with the rules and regulations and the provisions of the Act. Instead of doing that, an attempt is being made to get rid of the whole thing and bring in a measure to re-enact the very sections that are going to come into force probably a year or two later. What is the purpose and the object gained, I am unable to comprehend.

“ In this Bill there is also one outstanding feature which cannot but be noticed by every Member who has perused it. In the existing Act XI of 1929 there is section 20 which says:

‘ Within six months after the end of each financial year, the Commission shall present to the Local Government a report on its proceedings during such financial year and the report shall be brought up by the Local Government for the consideration of the Legislative Council.’

“ Now quietly that section is removed from the new Bill. It may be that the activities of a Commission, a well-constituted and well-ordered Commission, their operations and their proceedings ought not to be the subject-matter of discussion on the floor of a Council like this. In so far as the Commission is a judicial body or a quasi-judicial body dealing with matters which concern the vested rights and the accruing rights of individual servants of Government, they shall not be open to discussion in this Council. But when you constitute a Commission which has to advise the Government, whose salaries are paid out of public funds for which the Government will be responsible, how are the public and the representatives of the public, the Legislative Council, to know whether the Government are respecting the Commission which is established under law and acting according to the rules and conventions and carrying out the advice or the opinion or the recommendations of the Commission? How can we know how exactly the Government treats the Commission, how far they give effect to their opinions and value their advice, how far they carry out the instructions, the suggestions and the recommendations of the Commission from time to time? What is there in the present Bill to provide that the Legislative Council can have knowledge of these matters? The Hon. the Revenue Member may perhaps point to our right of interpellations. Certainly interpellations are not meant for this purpose. As long as there is no report placed before the Council, how can the Council know how the Government deal with the matters raised by the Commission and for what reasons they disagree with the Commission? How can we control the activity of the Government? What is there to restrain the Government from vetoing the decisions of the Statutory body? The only effective control is public opinion. How will you get that public opinion unless you place the report of the Commission on the table of the House for such discussion as the Council may deem fit. The Hon. the Revenue Member might reply that the report ought not to be the subject-matter of discussion. Probably his legal advisers might

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have told him so. The Government of India might have stated so. This prohibition may apply to the actual acts, the actual opinions and the actual suggestions of the Commission to the Government on matters of rights of individual Government servants. But what is there to prevent a discussion of the activity of the Government in relation to the Commission and a discussion of the activity of Commission in relation to the Government? That certainly should be a subject-matter of discussion and should be subject to public opinion. Without public opinion, I am afraid, Sir, that this Statutory Commission will be a dead body and will not serve any useful purpose. It is useless to constitute a Commission of that kind without giving at the same time power to the Legislative Council to consider the report on the activities of the Government and Commission in relation to each other.

1-15 P.m. "We are going to enter into a responsible party Government. If the party Government is going not to respect, not to regard, not to heed any of the recommendations or advice given by the Services Commission, we do not know where it will end. There is the security for the services. How is the Legislative Council going to be assured that the recommendations, the actions and the advice given by the Commission are accepted by the Government? How is the security of the services for whom the Services Commission is going to be established, how is the security of the services for the regulation of which you are going to give some powers to the Commission, going to be safeguarded, unless and until you give an opportunity to the Legislative Council to review the activities of the Government, of the party Government, of the responsible Government? There is no useful purpose that will be served by setting up the Commission and by enacting a measure of this type.

"With all respect I would like to ask the Hon. the Revenue Member to tell me whether this Bill has had the approval of the Services Commission which is now functioning, which has been in existence for the last six or seven years. The Commission must have created certain traditions, certain functions, certain procedure. I would like to ask the Hon. the Revenue Member whether the opinion of the Commission has been obtained on this Bill or whether it is being done behind its back. If this is being done behind the back of the Commission, I would say that it is most unjust and injudicious. The Services Commission ought to be given the right to give its opinion as to what exactly it has to say. It is not enough and I would not be satisfied if only one Member of the Commission, or the Secretary or the Chairman was consulted. I would like to know whether the Services Commission as a whole has given its opinion and whether there is anything on record. I would be very thankful to the Hon. the Revenue Member if he would place before us the opinion, the considered opinion of the Commission on the various clauses of this Bill, that was obtained before the Bill was published. It is essential that the Commission ought to be consulted; that is a body which has been constituted under the Act. It is a body which has got vested rights and when their rights are being affected, when their powers are being curtailed to whatever extent, it is quite reasonable that the Commission should be consulted and given an opportunity to express its

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views on the various sections of the Bill, and on the desirability of a measure of this kind. I submit, Sir, that on these grounds, there is no need for the Bill to be passed into law at this stage. It is enough if we get on with the present Bill; if there is any need or justification for making some amendments to the existing Bill, that can be done. There seems to be no case for bringing forward a new Bill and merely repeating sections after sections. No other province has done so. Why should this Province alone do so now and anticipate so many things? What is it that the Bill claims? They have in fact omitted many salient features of the existing measure; they have copied sections after sections; where is the need for this Bill and for enacting it so early? Power is given under section 264 of the new Constitution Act to appoint a Commission. A Services Commission is already existing; section 266 gives additional powers. Instead of giving additional powers and functions to the Commission, what the Government are doing now and what the Bill seeks to do is to curtail all the powers of the Commission, to make it a non-entity, to make it a figure-head. I am certainly against the Services Commission exceeding its powers; on matters on which the Government wants its opinion, it is bound to give; I am against the Services Commission asserting itself in provinces which are not its legitimate ones. If, for instance, the Government want that a certain recommendation should be made with regard to a certain post keeping in view the scale of salary, the conditions of service and so on, and if the Commission goes out of its way and says it would recommend a man on Rs. 500 or Rs. 300, certainly the Commission's opinion can be turned down. But the Government should not make a generality of a particular case like that and say that they would not accept the recommendation of the Commission in all cases. There are cases in which the Government will be justified in not accepting the Commission's recommendation. There are cases also in which the Government will not be justified in rejecting the recommendation of the Commission. It is but necessary that the Legislative Council should be taken into the confidence of the Government with regard to the relationship between the Government and the Commission. I am certain that the Legislative Council will not lose the right they have already got of considering the report and the relationship that exists between the Commission and the Government year after year. The Council, I am sure, will not give up that right and will fight for that right being restored to them. Whatever may be the objection that may be put forward by the Hon. the Revenue Member, it will not hold good in the light of what I have already stated. I would therefore say that my inclinations are that this Bill should be opposed and rejected by this Council. But since I find public opinion in this Council may not be wholly in favour of my view, I would move the motion that the Bill may go before a Select Committee; it may thrash out all the issues and it may be given a direction that it may report whether this Bill is necessary at all at this stage and whether it would serve any useful purpose. It is of course open to the Select Committee to say whether the Bill is necessary or whether it may be dropped, or whether it requires any alterations or modifications. I would therefore

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move that under Standing Order No. 39 (2), this Bill be referred to a Select Committee consisting of:—

- (1) The Hon. Mr. C. A. Souter (Mover).
- (2) Rao Bahadur Sir A. P. Patro.
- (3) The Hon. the Raja of Bobbili.
- (4) Mr. V. M. Ramaswami Mudaliyar.
- (5) Dr. P. Subbarayan.
- (6) Mr. Basheer Ahmed Sayeed.
- (7) „ T. C. Srinivasa Ayyangar.
- (8) „ T. S. Ramaswami Ayyar.
- (9) „ V. P. Narayanan Nambiyar.
- (10) „ T. Narasa Reddi.
- (11) „ A. Ranganatha Mudaliyar.
- (12) „ M. B. Rangaswami Reddi.
- (13) „ D. M. Reid.
- (14) Rao Sahib V. Dharmalingam Pillai.
- (15) Mr. G. Sriramulu.
- (16) „ J. Kuppuswami Choudari.

I also request that you may be pleased to suspend the Standing Order limiting the number of Select Committee Members to 13 and to allow me to make the motion.”

* MR. K. A. NACHIYAPPA GOUNDER:—“ Mr. President, Sir, I have much pleasure in seconding the motion so ably moved by my friend, Mr. Basheer Ahmed. I am also of the opinion that the introduction of the measure is not at all warranted at the present moment. We are now getting on with the present Services Commission Act; this House is at liberty to enjoy some privileges, such as going through the report of the Commission and offering criticism or advice or suggestions or remarks. This enables public view point being conveyed to the Commission. If this Bill is passed into law, we will be deprived of this privilege. Of course it must be said that the House cannot enjoy this privilege when the new Government of India Act comes into force. When there is no possibility of the new Government of India Act coming into force for one year more, why should we rush and get through a measure so much in advance as one year when the other provinces are not moving in this direction and thereby forego our rights even from now. This measure wants to put in some new sections which deprive the Commission of the opportunity of giving its opinion on legitimate questions. Clause 12 of the Bill says that the Local Government may certify that they cannot give some information without undue labour or in the interest of the public, etc. I find that the Commission will be responsible only to His Excellency the Governor; I do not understand why it should not be taken into confidence and why it should not be given facilities for looking into the records and asking for information. As pointed out by my leader, this measure seems to stiffen the position more than what is contemplated in the new Government of India Act. That Act will come into force some time later and this Bill being taken up so much in advance, seems to me rather to be a queer idea and the argument set forth, I may say, Sir, is not at all convincing.

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“ It is stated in the Statement of Objects and Reasons that under section 10 of the Act as it stands now, consultation with the Commission is obligatory in every case of recruitment made in India to services under the control of the Local Government including even those of peons and constables. Though the Government state that there is such a provision, they are not giving effect to it now. The Commission may be consulted with regard to the recruitment of all services from the top to the bottom. It will be well and good for the Government to have the view points of an independent authority, so that they might act in the right direction. In future we are going to have the Government constituted on party system and it is quite necessary and expedient that the Commission should be consulted on many matters. These are all things that are anticipated, but now we can very well get on with the existing Act. The Legislative Council can be enjoying the privileges it has under the present Madras Services Commission Act, until the new Government of India Act comes into force and until rules are framed by His Excellency the Governor to put the new Commission in the working order. Until then, the Commission will have the advantage of hearing what the representatives of the people in this House have to say and they can consider the suggestions made by them. Under the Government of India Act, even though His Excellency the Governor may have the authority to decide the issues one way or the other, with regard to the working of the Commission, I think if the present system is to go on till the Government of India Act comes into force and the new Commission comes into operation, the present practice and the suggestions which the House may express from time to time may weigh with him in the shaping of the new rules and the decisions of His Excellency may be favourable and in agreement with the public view point. If this Bill is to be passed into law and if the practice we are following now is changed, there is no scope for His Excellency the Governor to think anything of the existing practice at the time of framing the rules, and I fear the new Services Commission may be organized in a more rigid way than what is contemplated in the Government of India Act.

“ Then, Sir, with regard to the present Commission, my hon. Friend, Mr. Basheer Ahmed Sayeed, has pointed out that before bringing in this measure, the present Commission was not consulted.”

1-30
p.m.

MR. BASHEER AHMED SAYEED :—“ On a matter of personal explanation, Sir. I said that I wanted to know from the Hon. the Revenue Member whether the Services Commission as such has been consulted, and if so, whether its opinion will be made available.”

* MR. K. A. NACHIYAPPA GOUNDER :—“ I am glad to be corrected. I would also like to have the same information from the Hon. the Revenue Member. My doubt arose in this way, that if the Commission was consulted, it would have been stated so in the Statement of Objects and Reasons, and the opinion of the Commission also would have been included there. In the absence of any information on this matter, I began to doubt whether the Commission was consulted at all.

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“ Having said that . . . ”

* The Hon. the PRESIDENT:—“ Is the hon. Member likely to take a long time to finish his speech? ”

Mr. K. A. NACHIYAPPA GOUNDER:—“ I shall continue after lunch, Sir.”

The House then adjourned for lunch.

After Lunch (2-30 p.m.)

* Mr. K. A. NACHIYAPPA GOUNDER:—“ Mr. President, Sir, even in regard to the present Commission, we have had occasions to make bitter complaints at the time of discussion of the report of the Commission every year, about the way in which selections are made. There have also been occasions when the suggestions that we made in the House were considered and adopted. We often hear, Sir, from applicants for selection, that the method of selection is not after all quite satisfactory, at any rate, what it should be. The members of the Commission seem to think that their sole aim should be efficiency and nothing else. But in the actual selections made, we find that efficiency is not taken as the sole criterion, as it is stated to be. Oftentimes selections are made of people with ordinary or minimum qualifications, even when more highly qualified persons are available. When representations are made, the members of the Commission say that they are to select the best person for each post but from a close examination of the various selections one could not find that policy throughout.”

* The Hon. the PRESIDENT:—“ I am afraid I am not able to follow the relevancy of the remarks that are just now falling from the hon. Member. He is evidently going into the procedure that is being adopted or is going to be adopted by the Services Commission. That is not quite relevant.”

Mr. K. A. NACHIYAPPA GOUNDER:—“ I am trying to contrast the present Commission with the future Commission, and thus making my criticism on the Bill before us.

“ When such is the case even with regard to the existing Commission whose actions we have now got liberty to criticize, I cannot understand how the future Commission will function, when our rights to criticize are taken away. How can the public opinion be brought to bear on the Commission if we don't have the right to criticize? It may be, Sir, that the Commission will be responsible to His Excellency the Governor. The Governor no doubt controls the Government, and the Government have to take note of public opinion. If public opinion is really to be taken into consideration, I think there ought to be some medium by which such public opinion is to be brought to the notice of the Government and the Commission and this legislature will be the proper medium and hence I would urge that the liberty hitherto enjoyed by this House should be allowed to exist. In the absence of even such mild and innocent provisions, I am sorry, I have to oppose this measure.

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“ When I am of such bent of mind, the hon. Members may perhaps be surprised at my seconding the motion for referring the Bill to a Select Committee. No doubt my idea is that the Bill should be opposed; but taking into consideration the attitude of the Government and of the party in power and taking also into consideration the fact that the Bill is not likely to be rejected—as I wish it should be—I think that if the Bill is taken to a Select Committee, some of the provisions at least may be amended in such a manner as to enable us to continue to enjoy certain privileges in regard to the discussions about the activities of the Services Commission which we are now having.

“ The Hon. Member in introducing this Bill stated that it was drafted mostly on the basis of the Government of India Act and there was nothing to be changed or altered. Since the new Government of India Act is not in operation, I may say that we may modify the Bill so as to conform to the views of this hon. House. Let this Act continue to be operative, in accordance with our own views, at least till the new Government of India Act comes into force; I have a certain belief, Sir, that afterwards, when His Excellency the Governor brings into operation a new Commission, the rules to be framed by him for the functioning of the new Commission can have at least some of the favourable points which His Excellency can grant even under the limitations of the Government of India Act.

“ With these observations, Sir, I second the motion for referring the Bill to a Select Committee.”

The Hon. Mr. C. A. SOUTER:—“ I should like to say, rather than reply to the points raised by the various speakers who have spoken before me, that on behalf of the Government, I am prepared to agree to the motion for referring this Bill to a Select Committee.”

* Rao Bahadur Sir A. P. PATRO:—“ Mr. President, Sir, my task has been very much lightened by the very liberal attitude shown by the Hon. the Revenue Member in accepting the motion to refer the Bill to a Select Committee. It has also been lightened by the fact that after the very eloquent speech of the hon. the Leader of the Opposition, it is unnecessary for me to say much on that aspect, viz., that there is no need to bring in this Bill at this juncture. Mr. Basheer Ahmed Sayeed has also spoken in his characteristic way, for about fifty minutes, on the legal aspect of the matter, viz., that if the Federal Act is passed, then this Act will become infructuous, and that therefore there is no necessity to pass this Bill now. After these points made out by the two hon. Members, I have not, as I said, very much new to say. But it seems to me, Sir, that it is very unfortunate, that a sympathetic officer and administrator, as the Hon. the Revenue Member, should have been forced to bring in a measure of this kind, not only this measure, but a measure relating to tobacco taxation, at this juncture.”

The Hon. Mr. C. A. SOUTER:—“ On a point of personal explanation, Sir. No one regrets it more than myself.”

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* Rao Bahadur Sir A. P. PATRO:—"Sir, it rather creates a very unfavourable impression in the country and on this House that these measures should have been brought in in such a panicky haste. At a time when both the Secretary of State and the Viceroy are appealing to create a favourable atmosphere for the reception of the Reforms, however defective they may be, at this juncture the Madras Government have chosen to bring in a measure which will be a burden on the people of this province and create unrest, namely, the Tobacco Bill and this Public Services Commission Bill which takes away some of the powers of this legislature. These two measures are not likely to tend to create that favourable atmosphere which is so earnestly appealed for both by the Viceroy and the Secretary of State. Nevertheless the Government of Madras, Ministers and Members may think that this is a favourable opportunity, because this House has outlived its term and has been having a wearied existence for about six years, and that, therefore, tired as this House is at this juncture, if measures like this are brought forward they are not likely to meet with that amount of opposition that may be raised otherwise. Probably it may be the reason. What I do say is, I quite appreciate the force of argument of the Hon. the Revenue Member when he said that certain powers which are being exercised by the Services Commission to-day are inconsistent with the provisions of the Government of India Act, 1935, and that it is therefore just and fair that they should set right matters with a view to see that a real Public Services Commission Act is presented to the new Government. It is no doubt a very liberal-minded policy. But, as the hon. the Leader of the Opposition has stated, this Government should have spared itself all the trouble and should have left it to the new House which will be more representative than the present one, to deal with this matter.

"Apart from that, Sir, there is this difficulty also on the part of the Government. The Ministers are there, no doubt, but the difficulty of constitutionalists like me is that, there has been no consultation, there has been no conference of the members of the party—Ministerialists and Justicites—so that they could meet together and express their views and form decisions. There was no such consultation and no conference of hon. Members in order to arrive at certain decisions on important matters of policy like this. Sir, previous consultation was not held and previous discussion with leaders was totally absent, but there was one thing, that is the attitude of the Government. Encouraged perhaps by the silent sympathy and support which is evinced by the Nationalist cum Congress journals of the city which had no word to say when taxes were imposed on the poor suffering millions of this province . . ."

The Hon. Mr. G. T. H. BRACKEN:—"On a point of order, Mr. President. The hon. Member is speaking about the Tobacco Bill."

* Rao Bahadur Sir A. P. PATRO:—"I am sure the point of order is quite right in the sense, I hope, the Hon. Member is supporting what I am trying to expound, namely, that it is the silent sympathy of a

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certain section of the Nationalist cum Congress journals in the city that has encouraged this kind of attitude on the part of the Government, and that this silent sympathy is only a lure to the Government, a lure which is sure to lead them into a dangerous situation, and I am sure the shrewd and experienced Members of the Government will realize that they will fall victims to this kind of allurements.

“ Now, Sir, on the merits of the Bill, what I have got to say is this, namely, that this Bill is a retrograde measure and it ought not to have been brought forward at this juncture. After all, as the Hon. the Mover himself has stated, after the Federal Legislature has passed an enactment under the provisions of the new Act, if a measure is to be passed under section 264, then any measure that could be passed now, will disappear, and the new Act that will be passed under section 264 will come into existence. Then, the right moment for this House to do anything will be under section 267 by which the legislature may provide for the exercise of additional functions by the Federal Public Services Commission. That is the only thing that will be open to this House. It is only to that extent that this House will have jurisdiction to interfere with the Act that might be passed by the Federal Legislature. So far as we are now concerned, if we take the trouble and take up the time of the House by passing this measure, the effect of all that will be, that as soon as the Federal Legislature has passed an Act, this will have to go. Therefore, it is very rightly asked, why all this trouble and why should we bring in this measure? No doubt, it is said that this measure includes many of the provisions and the recommendations of the new Act. I quite appreciate the position that the present Act requires considerable improvement, that experience has shown that in the practical working of the present Act, many defects and difficulties have come to light and that the rules and regulations that have been passed thereunder have been such that perhaps excessive powers were conferred upon the Services Commission and perhaps there is also conflict of powers in the matter of appointments between the Government and the Services Commission. But, Sir, is there any one Act in which such difficulties have not arisen in practical working? (The Hon. Mr. G. T. H. Bracken: ‘ No.’) The Hon. the Finance Member says ‘ No.’ I dare not contradict him immediately without referring to other enactments wherein such things have been in existence and there have been conflicts between the Government and other organizations. One thing strikes me at this moment. Take, for instance, powers under the Local Boards Act and the District Municipalities Act. There have always been references and numerous Government Orders have been passed from time to time. An interpretation of the particular sections explaining the particular powers of the local boards shows that no Act can be perfect in the matter of conflicts between the Government and other bodies. It seems to me that the real cause for bringing in this measure is, that it would not be possible later on to make these drastic changes

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that are contemplated in this Bill. After all, what are those drastic changes? One important change that is put in this Bill, as opposed to what is contained in the present Act is section 20. What is section 20? It means that power is vested in this House to discuss the report of the Commission every year, that the report has to be submitted to the Government and the Government has to place that report on the table of the House, this House could discuss the report in all its important aspects and express an opinion on it. That right of this House is sought to be taken away by this measure. Is it a small power of this House and is it right that such a privilege and right of this House, namely, discussing the report and the working of the Services Commission, should be taken away from this Council? If we refer to section 7 of the existing Act, it provides that the salaries of the members of the Services Commission will have to be shown in the budget. What will happen hereafter is, the Governor will make regulations under the Act by which they will become non-votable and it will not come here for the purpose of discussion at the time of the budget. Therefore, two of the most important powers of this House which at present exist in the present Act, are sought to be taken away and this House will be deprived of the privilege of discussing them. I therefore feel that certain amendments have to be made in this Bill to see that the powers of this House are not affected.

“Again, Sir, you will see from a perusal of the Bill itself, everywhere the sections seem to be mere skeletons kept for the purpose of stating a principle without sanctions. What will be the result of this Bill? You find that in every section power is vested in the Governor to make regulations as to how this Act should work. I need only ask you to refer to clause 6 of the present Bill which says—

‘The Governor may by regulations—

(a) determine the number of members of the Commission, the tenure of office of the Chairman and other members, the salary and allowances (including travelling allowances) payable to them and their conditions of service; and

(b) make provision with respect to the members of the staff to the Commission, the salary and allowances (including travelling allowances) payable to the members of such staff and their conditions of service, and also with respect to such other expenses as may be incidental to the work of the Commission, including contingencies, supplies and services.’

“All these powers he will have in his hands. It is not open to the Governor now to do all these things. Hereafter he will have the indirect power vested in him to ask the Secretariat to make these rules. I have said yesterday that this power of delegated legislation is a very vicious one. That power of delegated legislation is, as far as possible, sought to be avoided in the Act of 1935. In Parliament, there should be an affirmative resolution for Orders in Council to be passed for the purpose of approving them. Therefore, it is not merely placing the resolution on the table, it is not merely intimating that a particular thing had been done by the Executive Government, but that legislation and Orders in Council, should receive the approval of the House. Such a power we have to-day and when Parliament demanded that that

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power should be continued, are you going to deprive yourself of this power? This, therefore, is a matter for very serious consideration of this House.

"Then, again, Sir, I do not want to deal with the clauses seriatim—if you take clause 7 (3) it says: 'The Governor may make regulations specifying the matters on which either generally or in any particular class of cases or in any particular circumstances it shall not be necessary for the Commission to be consulted.' All these are drastic powers which are sought to be taken away from us and vested in the Governor and the instrument of the Governor will be the Secretariat. The result will be that this House will not be the legislators, but the Secretariat will legislate for this House. Of course, it may be argued that under the new Government of India Act also you find that similar powers are vested in the Governor-General. I am not oblivious of such a provision in the Government of India Act, 1935, for the Act proposed to vest powers in the Governor-General to regulate the procedure of the Public Services Commission. That is true. But, why until that Act comes into operation, should we shackle ourselves with all the difficulties during the interim period? That is my contention."

The Hon. Mr. C. A. SOUTER:—"On a point of order, Mr. President. Do I understand the hon. Member to say that he proposes to amend the Government of India Act?"

Rao Bahadur Sir A. P. PATRO:—"I am afraid the Hon. the Revenue Member in his anxiety to carry through this measure, is not prepared to appreciate the position I take."

* The Hon. the PRESIDENT:—"The only observation that I can make at this stage is, the hon. Member is dealing more elaborately with the Government of India Act than with the Bill before the House."

* Rao Bahadur Sir A. P. PATRO:—"It is absolutely necessary, Sir, because a perusal of the last paragraph of the Statement of Objects and Reasons relating to this Bill will show that advantage is taken of the Government of India Act and they have incorporated certain provisions of the Government of India Act into this Bill."

"Sir, if I refer to the Government of India Act more than is perhaps necessary, it is because of the position taken up by the Government, namely, that they have drafted these provisions. Hence I think I am thoroughly justified in referring to it. Clauses 13 and 14 of the Bill are the crown of all provisions. They read—

'The Governor may make regulations to carry out all or any of the purposes of this Act and not inconsistent therewith.

In particular and without prejudice to the generality of the foregoing power, the Governor may make regulations prescribing the procedure to be adopted by the Commission.

14. All regulations made under this Act shall be published in the *Fort St. George Gazette* and upon such publication shall take effect as if enacted in this Act.'

3 p.m.

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“ So, Sir, the regulations to be made by the Governor form part of the Statute. The point I am trying to make is that these regulations are not merely for purposes of procedure but these form part of the Statute and have a statutory effect from the date of their publication. You are taking away the powers which this House has of making rules and regulations in this part of the administration of the country and placing them in the hands of the Governor, a single individual,—he has already so many powers vested in him. He is burdened with many powers, special, general, particular, legislative and executive. He is burdened with so many powers and what is this after all? These regulations naturally will be made by my hon. Friend, Mr. Boag, and the Member of Government in charge. (Laughter.) These regulations being part of the statute, they cannot be approved by this House. I do not see why the power that we possess under section 20 of the old Act should be given up. It is a different matter if we are to go up to the Government of India for previous sanction of a Bill vesting us with such powers. What I say is, these powers are there already in existence and I ask why they should not be allowed to continue. I am sure, therefore, that the Select Committee will consider the position very carefully and restore the provisions in section 20 to this Bill.

“ Under the present Act, rules have to be made by the executive and these rules no doubt conflict with certain powers of the Services Commission. Two reasons are given in the Statement of Objects and Reasons to show why this Bill is to be brought in. One is that there has been a certain amount of conflict between the rules made and they are too rigid and inconsistent with the powers exercised by the Services Commission. Has there been any instance to show that the provisions of the Act are too rigid and are extensive and if the Government took upon itself to make reference to the Public Services Commission for decision and for advice on matters which were not sanctioned by the rules, it is not the fault of the Services Commission. Nor is it the fault of the Act. The rules were made by the Government and if they were rigid, it is not the fault of the Commission. Therefore, I submit, Sir, that such reasons for bringing a new Act seem to be not very sound. I submit that these defects have to be rectified. I have dealt with many of the points on which hon. Members raised difficulties. I only hope that the Select Committee which will deal with this measure in detail will do justice to the Bill.”

* Mr. M. DEVADASAN:—“ Mr. President, Sir, in supporting the motion for referring the Bill to a Select Committee, I want to make a few observations. My hon. Friend, the Leader of the Opposition and Sir Patro said that it was too inopportune to bring in a measure of this kind, in view of the fact that Reforms are to come in very shortly. Sir, we are members of the Council at present and so long as we continue to be as such, we have to justify our existence by doing some useful work. The probable date of the introduction of the Reforms is not yet known to anybody and I think we shall not be justified in

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sitting idle in the expectation of the advent of the Reforms. We shall not be doing justice to ourselves and the people, if we do not consider a Bill of this kind which is intended to remedy the defects in the working of the Commission. It is apparent from the Statement of Objects and Reasons that this Bill is intended to remedy certain defects and I think that we ought to welcome the measure.

“ But at the same time, I must submit that the Bill is neither comprehensive nor quite accurate. There are certain defects in the Bill which have to be rectified and I hope the Select Committee will go into it with care and caution and effect changes therein removing the defects.

“ My hon. Friend, Mr. Basheer Ahmed Sayeed, stated that the Bill ought to have been referred to the Services Commission and their opinion obtained. I am not one of those who hold such a view. If the Bill is referred to them, I should say they would not approve of it, considering the fact that the amendments proposed would not be welcome to them.

“ The report of the Services Commission is subject to the examination and criticism of this Council under the present Act. Considering the fact that the Services Commission is invested with very large powers of appointment all over the presidency, there must be some check on them and the report of the Commission must be placed before the Council for its examination and criticism in the interests of the administration of the State.

“ Clause 20 of the present Act ought not to have been removed from the present Bill and I hope the Select Committee would re-introduce it into the Bill.

“ According to the present Act, there are only three members on the Commission. The appointments of Commissioners, I must say without fear of contradiction, are sinecure appointments merely intended as rewards for some officials in consideration of their past services rendered to the Government. Hereafter, they should not be reserved as sinecure posts for rewarding men who have served the Government in the past. It is stated in the Bill that half the members of the Commission must have been once before in the service of the Government for ten years. I think that this provision is introduced only for purposes of getting experienced men on the Commission. But we see that only old men are recruited to the posts and I am not sure whether they can acquit themselves well in the exercise of their duties. For, some of them happen to be retired officials bereft of their energy and strength.

“ I find from the papers that the Hon. the Revenue Member has received a memorial from ladies requesting him to reserve a seat or two on the Commission for ladies when the Commission is to be reconstituted under the new Act. I am not quite sure, whether there will be any chance for ladies to come in. However, I suggest that the

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present number should be increased to five or six in view of the fact that large and extensive powers are sought to be given to the Commission.

“ Another thing is that there is no definite period fixed for a tenure of office of a member of the Commission. The period of tenure of office must be limited to five years, or so. They should not be allowed to continue indefinitely for any length of time. For the proper discharge of duty with vigour, energy and strength, it is necessary that a period of tenure should be laid down and strictly adhered to. There should be a frequent change in the personnel of the Commission. As per sub-clause 3 of clause 5 of the present Bill either the Chairman or the members of the Commission are ineligible for re-appointment in Government service. There is a similar restriction placed on the High Court Judges. One could understand such a position in the case of the High Court Judges, for it may be said that the dignity of the Bench would be lowered by their mingling once more with junior members of the Bar on retiring from the Bench. There is no such position in the case of members of the Commission, for they cannot bear comparison with Judges. This I think ought to be removed. I would suggest that the tenure of office with the Commission should be fixed at five years or so. I hope the Select Committee will give their consideration to the remarks made in the course of the debate and make suitable alterations in the Bill.”

3-15
p.m.

Mr. M. S. SRESHTA :—“ I do not want to weary the House by making a long speech. But I feel it is my duty to say a few words. The Government of India has been referred to by the previous speakers almost in every sentence. It is because it has been stated in the Statement of Objects and Reasons in this Bill that this Bill has become necessary because of the Government of India Act. I feel and all members of the House feel that it is hardly necessary at this moment to take up the time of this House by introducing this Bill. It may be that the guillotine is going to fall in about 18 months. But why should this House divest itself in the meantime of the powers it possesses. When the Government of India Act comes into force we shall have full fledged democracy and then it may be necessary to place the Commission beyond the influence of parties. It is not necessary to do anything at this stage. The Service Commission enjoys full powers and if their report is discussed in this Council it is not to check it but it is to protect it. It might have been noticed that whenever the report of the Commission has been discussed, the members of this House have been trying to protect the Service Commission against, if I may say so, the autocratic powers of Government. We are now in a form of diarchic Government and we all feel that the Government is in the hands of the reserved half. The transferred half do not exercise their power as they ought to. For at least 15 months more this Council will have the power given to it of protecting the Madras Services Commission against the autocratic exercise of the powers of Government. I may also point

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out that the powers given here to the Governor or Governor-General are exercised by His Majesty in Council in England. All I say is, why should we not for 15 months longer continue in the present position? What do we gain by changing it and what does the Government gain by the change? I have been carefully considering the question and I also wished not to oppose the Bill if possible. But still I feel I will not be doing my duty and the House will not be doing its duty if this Bill is passed without protest. I think we all ought to protest against the Bill as it stands. It will be noticed that section 267 of the Government of India Act provides for the passing of a Bill for giving additional functions to the Services Commission. Any Bill which has to be passed should be in the nature of a supplementary Bill. I can quite understand that a supplementary Bill might be passed here giving additional power to the Services Commission. But what do we see in the present Bill? I would ask the Hon. Member in charge what additional functions are being given to the Services Commission. Having regard to the feeling in the country, the one additional function that the Member could have thought of would be to provide power in regard to the appointments under local bodies such as the panchayat officers, assistant panchayat officers and commissioners of municipalities. Charges of jobbery are being made everywhere. How far the charges are true, I do not know. The ground for making the charges should be taken away. I thought some more power would be given to the Commission in regard to these matters. I shall not weary the House any longer but I should merely repeat what I said that there is no more reason to put this Bill on the Statute Book than for introducing the Tobacco Bill, as referred to by Sir Patro. No doubt the reserved half honestly feels that the Bill is necessary in the interests of the country. But it is not responsible to the public. The transferred half does not consider its responsibility to the public and as was pointed out by others it drives more nails into the coffin of the party."

The motion of Mr. Basheer Ahmed Sayeed was put and carried and the Bill was referred to the Select Committee.

IV.—A BILL FURTHER TO AMEND THE MADRAS IRRIGATION CESS ACT, 1865, AND THE MADRAS LAND ENCROACHMENT ACT, 1905, FOR CERTAIN PURPOSES (BILL No. 16 OF 1935).

* The Hon. Mr. C. A. SOUTER :—" I beg to introduce a Bill * further to amend the Madras Irrigation Cess Act, 1865, and the Madras Land Encroachment Act, 1905, for certain purposes (Bill No. 16 of 1935) and move that the Bill be taken into consideration at once.

" This Bill, Sir, is merely for the purpose of transferring to the Board of Revenue the power of passing final orders on two small points. As regards the Madras Irrigation Cess Act, under section 1, clause (b), the question arises as to whether irrigation is beneficial to or sufficient